



AF  
JFW

Docket No.: 0033-0630P  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Shuichi WATANABE

Application No.: 09/451,097

Confirmation No.: 8589

Filed: November 30, 1999

Art Unit: 2613

For: IMAGE RETRIEVING APPARATUS  
PERFORMING RETRIEVAL BASED ON  
CODING INFORMATION UTILIZED FOR  
FEATURED FRAME EXTRACTION OR  
FEATURE VALUES OF FRAMES

Examiner: R. J. Lee

**APPLICANT'S BRIEF IN REPLY TO EXAMINER'S ANSWER**

MS Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. 41.41, Applicant hereby submits the following Brief in Reply to the Examiner's Answer dated August 22, 2006. Only issues raised by the Examiner's Answer are addressed in this Reply; the arguments from Applicant's Appeal Brief are maintained, but are not repeated herein.

I. **A PRIMA FACIE CASE OF OBVIOUSNESS HAS STILL NOT BEEN PRESENTED**

In response to Applicant's arguments that a *prima facie* case of obviousness has not been presented, the examiner responds at page 5 of the Examiner's Answer that "the frame feature value storing unit 126 or 128 of Figure 2 of Nagasaka *may obviously be connected to* the frame feature value generating unit 100 of Figure 11 of Takashima... (emphasis added)." At page 6 of the Examiner's Answer it is stated that "*it is considered obvious* that such connection of the

memory /storing unit is for the buffering of data for timely processings and featured frame representation purposes (emphasis added).” Stating something is obvious is not sufficient to create a *prima facie* case of obviousness. Identifying a possible result of a combination does not constitute a motivation for making the combination in the first place. Repeating the phrase “timely processings of data” in no manner explains the meaning of that phrase or shows where in the record it can be found. In view of the foregoing comments and the arguments presented in Applicant’s Appeal Brief, it is respectfully submitted that a motivation for combining Takashima and Nagasaka has not provided, that a *prima facie* case of obviousness has not been presented, and that claims 1 and 27 are allowable over the references of record.

## II. “EXPLOIT” DOES NOT MEAN “TO CALCULATE STATISTICS”

The rejection of claims 1 and 37 is based on the assumption that the word “exploit” means “to calculate statistics.” At page 6 of the Examiner’s Answer, it is argued that “Since Takashima teaches scene changes are detected by exploiting motion vector detection operations performed by motion estimation circuit 103 ... the exploiting of the motion vectors thereby provides the calculating of statistics of motion vector information (emphasis added).” The argument is presented as if the above conclusion logically follows from the premise. However, nothing about the ordinary meaning of the word “exploit” suggests that exploiting a motion vector requires the calculation of statistics. “Exploit” means to use to one’s advantage, not to “calculate statistics,” and Takashima in no manners suggests calculating statistics of motion vectors as required by claims 1 and 37.

## III. RESIDUAL BITS ARE NOT STATISTICS OF MOTION VECTORS

It is noted that the Examiner’s Answer appears to attribute a certain statement to Applicant that Applicant did not make. Specifically, the Examiner’s Answer provides at page 6, line 19, “As pointed out by the appellant, ...” and proceeds to make a statement regarding what is taught by Takashima. While the statement referred to in the Examiner’s Answer was present in Applicant’s Appeal Brief (at page 6), the statement was part of a quote from the final Office Action. The phrase quoted at page 6 of the Examiner’s Answer does not appear in Takashima,

does not represent Applicant's understanding of Takashima, and, in fact, is submitted to be incorrect for the reasons presented below and in the Appeal Brief.

Takashima discusses a use for residual bits, which are the "amount of encoding information remaining which is allocated to the current GOP (column 2, lines 60-63)." Takashima indicates that in known background art, "the number of the residual bits is controlled to be decreased each time a picture of the GOP is encoded such that it becomes zero after encoding the last picture in the GOP (column 9, lines 5-13)." However, with Takashima's encoding apparatus, "a large number of residual bits are left at a training end of a GOP. The encoding apparatus 100 according to this invention exploits the fact that bits are left at the trailing end of the GOP (column 9, lines 14-25)." Under various circumstances, the number of residual bits can be "reset," column 10, lines 33-38, or "updated," column 12, lines 47-54. With this background, the portion of Takashima relied upon by the examiner can be discussed.

Takashima provides that the device disclosed in Figure 5 suffers from a problem. That is, when motion vectors are relied upon to detect scene changes, "panning a picture may be erroneously detected as being a scene change." To avoid interpreting panning as a scene change, the residual bits may be used. Column 15, lines 55-58 of Takashima provide that "the use of residuals may be said to be most appropriate for detecting scene changes." Residual bits are separate from and are not based on motion vector information. They in no manner constitute statistics of motion vector information. The fact that they are "found at the time of motion vector detection" (column 15, lines 27-28), does not make them statistics of motion vector information as required by the pending claims. In fact, the use of residual bits is presented as an alternative manner for detecting a scene change. Takashima does not show or suggest the use of statistics of motion vectors as required by the pending claims, and claims 1, 27 and 37 are submitted to further distinguish over Takashima for this reason as well.

## CONCLUSION

The arguments presented in Applicant's Appeal Brief are maintained, and the withdrawal of the rejections of claims 1, 27 and 37 is earnestly solicited in view of those arguments and the foregoing remarks.

Dated: October 10, 2006

Respectfully submitted,

By 

Terrell C. Birch

Registration No.: 19,382

Scott T. Wakeman

Registration No.: 37,750

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road, Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorneys for Applicant